In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 6390 of 2007

Date of Decision: 01.05.2007

Parminder Kaur

…Petitioner

Versus

State of Punjab and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Liaqat Ali, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J. (Oral)

Notice of motion.

Mr. Amol Rattan Singh, Addl. AG, Punjab, who is present in the Court, accept notice on behalf of the respondents. With the consent of the learned counsel for the parties, case is taken up for final hearing today itself.

In pursuance to the advertisement published in the newspaper Daily Ajit, the petitioner sent two applications, applying for the post of S.S. Teacher in Zila Parishad and Nagar Council, Malerkotla, under Schedule Caste category. In the merit list prepared by the department, the name of the petitioner was shown at Sr. No. P-

1288 and she was not selected. Thereafter, the petitioner sent a legal notice, dated 1.3.2007 (P-6) to respondent No. 1 asserting that a candidate having less marks i.e. 127 has been selected, whereas the petitioner, who claims to have obtained 130 marks, has been ignored. When nothing has been heard, the petitioner has approached this Court by filing instant petition under Article 226 of the Constitution praying that the respondents be directed to decide her application dated 15.1.2007 (P-5) and the legal notice dated 1.3.2007 (P-6).

We have heard the learned counsel for the petitioner at some length and perused the paper book.

Before disposing of this writ petition we would refer to the views of Hon'ble the Supreme Court in the case of **Salem Advocate Bar Association v. Union of India, (2005) 6 SCC 344**. In paras 38 and 39 of the judgment it has been required that whenever notice under Section 80 C.P.C. or under any similar provision are sent then it is mandatory on the part of State or Central Government or other authorities to send reply to such notice. It is well settled that before seeking a direction or a writ of mandamus, a demand justice notice is required to be served on the respondents as has been done in the present case. The petitioner had sent a legal notice, dated 1.3.2007 (P-6), to which no reply is stated to have been received. It has also been observed by Hon'ble the Supreme Court that in cases where such like notice has not been replied then cost is required to be imposed. Therefore, without going into the merits of the case, we dispose of the writ petition at this stage with a direction to the

respondents to take a decision on the legal notice dated 1.3.2007 (P-6) by passing a speaking order within a period of two months from the date of receipt of a certified copy of this order.

Petition stands disposed of in the above terms.

A copy of this order be handed over to learned State counsel to enable him to forward the same to the quarter concerned.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 1, 2007
Pkapoor